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SUBJECT: SUPREME COURT FINALLY DELIVERS ITS REPORT ON SAN
SALVADOR ATENCO ABUSES

¶11. (SBU) Summary: Almost three years after the May 2006 police crackdown on local protesters in San Salvador Atenco which produced widespread human rights allegations, Mexico's Supreme Court finally delivered the results of an investigation it undertook in late 2006. While the report refrains from holding senior level officials directly accountable, it concludes that the police committed grave abuses and calls on authorities to establish standards not only for the use of force by Mexican law enforcement personnel but the prosecution of human rights violators. Given the government's overarching focus on fighting organized crime, it remains to be seen how seriously the government will work to improve its handling of civil demonstrations. End summary.

¶12. (U) Background: On May 3 and 4, 2006 federal, state and municipal police entered the cities of Texcoco and San Salvador Atenco in order to restore order in the face of large demonstrations by local street vendors -- objecting to the local government's decision to relocate the vendors -- and supporters from a local NGO, the People's Front in Defense of Land (FDPT), from the downtown area of Texcoco City. The ensuing confrontation produced significant violence with several policemen taken hostage at one point by some of the protesters. Ultimately, the police detained over 200 individuals, among them at least some 31 women who claimed they were sexually abused while they were being transferred to the detention center. Two persons (one a minor) were killed in the clashes.

¶13. (U) Several institutions, including the Federal Attorney General's office, the National Human Rights Commission (CNDH) and the Mexican Supreme Court took up independent investigations of the May 2006 events. CNDH issued a recommendation in October 2006 concluding law enforcement officials had committed an array of human rights abuses including arbitrary detention, cruel treatment of detainees, excessive use of force, sexual abuse, torture, and deprivation of life. CNDH's recommendations are non-binding, but carry moral weight; once an institution accepts a recommendation, the CNDH reports on its fulfillment. In this case, Mexico's Attorney General did not agree with CNDH's conclusions and rejected the recommendation. The Governor of State of Mexico, on the other hand, accepted the recommendation and the State Prosecutor lodged an indictment against 21 policemen, (15 of whom have been fired, one of whom was fired and required to pay reparations to one of the victims for sexual abuse, and five of whom still face charges).

¶14. (U) Mexico's constitution grants the Supreme Court (SCJN) the power to conduct fact finding investigations. After almost three years, the lead judge in the Atenco case presented his report to the public on February 6. The report charged law enforcement officials with numerous violations of basic rights, but found that while the use of force during the law enforcement operation was disproportional, it was not ordered by the senior law enforcement officials, but rather permitted by the ones commanding the operations. While the

report did not assign responsibility to individual policeman for specific violations, it did include a list of law enforcement personnel participating in the operations; the majority of the names on that list were omitted from the public version of the report for procedural reasons.

¶15. (U) CNDH and Mexican human rights activists had roundly condemned senior state and federal officials for their alleged roles in the violent confrontations, including then Secretary of Public Security, now Federal Attorney General Eduardo Median Mora, President Fox's National Security Council Coordinator Miguel Angel Yunes Arcia, and Governor of State of Mexico Enrique Pena Nieto. The Court findings, however, do not speak to the individual responsibility for the violations, widely disappointing the human rights community (which nevertheless applauded the Court for citing the human rights abuses committed).

¶16. (U) Issuing the findings was a high profile affair. The SCJN made its report available on the Court's website and transmitted on live TV the full bench's hearings to discuss the judge's report. Human rights NGOs, such as Centro PRODH, which issued an amicus curiae to the Court, followed the case closely and played a major role in the public discussion of the Court's findings. It maintained the Court's findings reinforced concerns about the structural failures of Mexico's public security, the sexual abuse of detained women, and the lack of a serious and effective investigation by federal and state authorities.

¶17. (SBU) Comment: The conclusions of the Court are not legally binding. Thus, while the human rights community has embraced the report, it is not entirely clear what impact its findings will have on the Atenco case or the future conduct

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of law enforcement officials. Enrique Pena Nieto, the Governor of the State of Mexico and PRI's leading candidate the actions of the police in his state and there is little evidence the investigation into the five outstanding defendants will suddenly produce closure. Given the overriding concern about security in Mexico, no significant groundswell of concern about heavy handed police activity has emerged.

¶18. (SBU) Nevertheless, the spotlight the Court put on the abuses committed at Atenco, and its harsh criticism of bad policing in this case, may move the bar somewhat higher for police when responding to similar situations in the future. The report rightly identified the need for Mexico to do more to adopt clearer regulations and procedures regarding the proper use of force in dealing with protests that turn violent. For the time being though the Mexican government has not offered any signal this will become a near term high priority.

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